

II Administrative Processes

9. Remediation Fund Source (RFS) and Financial Assurance (FA)

Action	When	Forms	Fees	Other sources of info	Rule citations
Establish Remediation Fund Source (RFS) for ISRA cases	<ul style="list-style-type: none"> - Upon submission to the DEP of a Remediation Certification¹ - Within 14 days after either Department approval of a remedial action work plan (RAW); or the Department's receipt of a RAW certified by an Licensed Site Remediation Professional (LSRP)^{2,3} 	Acceptable RFS Mechanisms: <ul style="list-style-type: none"> - Remediation Trust Fund (RTF) Agreement (template available) -Environmental Insurance Policy (form not available) -Line of Credit (template available) -Letter of Credit (template available) -Self Guarantee (application available) 	<ul style="list-style-type: none"> -1% surcharge for all RFS mechanisms (except Self Guarantee) -Initial 1% due with initial RFS submission 	Submit to: Bur. of Enforcement & Investigations 401 East State St. Trenton, NJ 08625-0028 Attn: Remediation Funding Source Administrator RFS web site Remediation Cost Review Estimate Form HDSRF Loan and Grant Application a HDSRF Loan or Grant may be used to establish RFS	7:26B-4.3 and 7:26C-5
Maintain RFS for ISRA cases until: <ul style="list-style-type: none"> -The Department issues an unrestricted use or limited restricted use NFA; or -A LSRP files an unrestricted use or limited restricted use RAO; or -A Remedial Action (RA) Permit is obtained for an engineering control and Financial Assurance (FA) is established 	Renewal/Annual Verification: 30 days prior to the expiration/anniversary of execution of the mechanism	<ul style="list-style-type: none"> -Annual Verification (template available), or -Annual Renewal of Self Guarantee (application available) 	<ul style="list-style-type: none"> -1% surcharge for all RFS mechanisms (except Self Guarantee) -Due on annual verification date 	Same as above	Same as above

Establish RFS for (Non-ISRA) cases per -Spill Act Directive -State Order -Administrative Consent Order (ACO) -Court Order	-On a timeframe established by the Spill Act Directive, State Order, ACO or Court Order	Acceptable RFS Mechanisms: Same as above	-1% surcharge for all RFS mechanisms (except Self Guarantee) -Initial 1% due with initial RFS submission	Same as above	7:26C-5
Maintain RFS for (Non-ISRA) cases until: -The Department issues an unrestricted use or limited restricted use NFA; or -A LSRP files an unrestricted use or limited restricted use RAO; or -A RA Permit is obtained for an engineering control and FA is established	Renewal/Annual Verification: 30 days prior to the expiration/anniversary of execution of the mechanism	-Annual Verification (template available), or -Annual Renewal of Self Guarantee (application available)	-1% surcharge for all RFS mechanisms (except Self Guarantee) -Due on annual verification date	Same as above	Same as above
Establish Financial Assurance (FA) For Remedial Action (RA) Permits that include engineering controls	-Establish FA prior to submitting RA Permit Application -Submit FA mechanism and the RA Permit Application together	Acceptable FA Mechanisms: - RTF Agreement (template available) -Environmental Insurance Policy (form not available) -Line of Credit (template available) -Letter of Credit (template available)	-RA Permit Application Fee due with RA Permit Application -No 1% surcharge required	Submit to: Bur. of Case Assignment & Initial Notice 401 East State St. Trenton, NJ 08648-0434 Ground Water Remedial Action Permit Guidance Soil Remedial Action Permit Guidance Remediation Cost Review Estimate Form RFS web site	7:26C-5 7:26C-7.7

Maintain FA For RA Permits until: The RA Permit is terminated by the Department	Renewal/Annual Verification: 30 days prior to the expiration/anniversary of execution of the mechanism	-Annual Verification (template available)	None	Submit to: Bur. of Enforcement & Investigations P.O. Box 028 Trenton, NJ 08625 Attn: Remediation Funding Source Administrator RFS web site	Same as above
Establish RFS for Direct Department Oversight	-Within 30 days after notification that the case has been placed under Direct Department Oversight	Acceptable RFS Mechanisms: -Direct Oversight Remediation Trust Fund Agreement (template available)	-1% surcharge required	Submit to: Bureau of Enforcement & Investigations P.O. Box 028 Trenton, NJ 08625 Attn: Remediation Funding Source Administrator RFS web site Remediation Cost Review Estimate Form	7:26C-5
Maintain RFS for Direct Department Oversight until: LSRP files an RAO	Annual Verification: 30 days prior to the anniversary of execution of the Direct Oversight Remediation Trust Fund Agreement	-Annual Verification (template available)	-1% surcharge -Due on annual verification date	Same as above	Same as above
Establish and Maintain RCRA FA for Closure/Post-Closure & Third Party Liability pursuant to 40C.F.R.264/265, Subpart H⁴	NA	NA	NA	NA	40C.F.R.264/265, Subpart H N.J.A.C. 7:26G-8.1 and 9.1

Footnotes:

1. A Remediation Certification is required when an ISRA subject party intends to sell an industrial establishment before the remediation has reached the remedial action workplan stage of remediation.
2. An ISRA subject party is required to establish a RFS to cover the cost of implementing the remediation at the time the RAW is approved by the Department or is certified by a LSRP. The industrial establishment may be sold after the RFS is in place.
3. A remediation agreement is an oversight document that was used for ISRA industrial establishments that triggered ISRA prior to November 2, 2009. Existing remediation agreements may be maintained until the Department issues a NFA or a LSRP files a RAO. The remediation agreement option is not available to a new ISRA case (one that triggered ISRA on or after November 4, 2009).
4. For information about establishing and maintaining RCRA FA for Closure/Post-Closure & Third Party Liability pursuant to 40C.F.R.264/265, Subpart H please refer to EPA websites (below) and refer to NJDEP website (To Be Determined)

EPA Web Sites:

EPA's Financial Assurance Main Page

<http://www.epa.gov/osw/hazard/tsd/td/ldu/financial/index.htm>

RCRA Financial Assurance Resources

<http://www.epa.gov/osw/hazard/tsd/td/ldu/financial/facover.htm>

Meeting the Financial Assurance Requirements

<http://www.epa.gov/osw/hazard/tsd/td/ldu/financial/famech.htm>

RCRA Financial Assurance Tools

<http://www.epa.gov/osw/hazard/tsd/td/ldu/financial/fatools.htm>